

ARKANSAS SUPREME COURT

No. CR 06-357

NOT DESIGNATED FOR PUBLICATION

DOYLE A. JONES
Appellant

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered September 28, 2006

PRO SE APPEAL FROM THE CIRCUIT
COURT OF WASHINGTON COUNTY,
CR 2003-850, HON. KIM MARTIN
SMITH, JUDGE

AFFIRMED

PER CURIAM

Appellant Doyle A. Jones was convicted of arson and sentenced to 480 months' imprisonment in the Arkansas Department of Correction. The Arkansas Court of Appeals affirmed the judgment. *Jones v. State*, CACR 04-632 (Ark. App. March 16, 2005). Appellant timely filed in the trial court a *pro se* petition for postconviction relief under Ark. R. Crim. P. 37.1, which was denied. Appellant timely filed a notice of appeal on June 13, 2005, but failed to tender the record to this court as required by our rules. His *pro se* motion for rule on clerk in this court was denied. *Jones v. State*, CR 06-297 (Ark. April 20, 2006) (*per curiam*). A request for rehearing on the issue was denied. *Jones v. State*, CR 06-297 (Ark. June 22, 2006) (*per curiam*).

Appellant also filed a *pro se* motion requesting transcript, a *pro se* motion for extension of time to file appeal, and a *pro se* motion for rule on clerk in the trial court. The motions requesting transcript and for extension of time were first denied by separate orders entered on the same day. The motion for rule on clerk was also denied in a later order. Appellant now brings this appeal of

the order denying his motion for rule on clerk in the trial court.

As the State notes in its brief, there is no equivalent to Ark. Sup. Ct. R. 2-2 for a motion for rule on clerk to be filed in the circuit court. The request in appellant's motion was in essence a third request to the trial court to direct the circuit clerk to have the record prepared and lodged in this court. The trial court, in its order denying the motion, referenced its previous order indicating that appellant had failed to comply with the procedural rules and noting that the time for any extension to prepare and file the record had expired. Under Ark. R. App. P.--Civ. 5(a), as applied through Ark. R. App. P.--Crim. 4(a), once the time for an extension has passed, an appellant must file for a writ of *certiorari* in this court to bring up the record. Appellant has already presented his arguments to this court requesting that we order our clerk to docket the appeal, and we declined to do so. Accordingly, we need not now consider the denial of appellant's motion in the trial court, as any further action by the circuit clerk would be ineffective. Were the record tendered, it would not be accepted by our clerk, and we therefore affirm the trial court's order denying the motion.

Affirmed.